

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
NO. 7:10-CV-203-BO**

SHARON B. DODD

Plaintiff,

v.

BOARD OF EDUCATION,

BRUNSWICK COUNTY SCHOOLS,

Defendant.

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ORDER

This matter is before the Court on Defendant Board of Education, Brunswick County Schools (“Board”)’s Motion to Dismiss [DE 16]. On September 22, 2010, Plaintiff Sharon Dodd filed a complaint alleging employment discrimination on the basis of race by the Board. Because Ms. Dodd’s complaint is untimely, Defendant’s Motion to Dismiss is GRANTED.

BACKGROUND

Ms. Dodd alleges that she was discriminated against in violation of Title VII of the Civil Rights Act of 1964 because of her race. Accepting as true the facts pleaded in her complaint, Ms. Dodd is a full-time bus driver and child nutritionist with the Brunswick County Schools. She is African-American. She was hired in August 1999, but was transferred to a position at another school in the county on March 6, 2009. A Caucasian woman began working in Ms. Dodd’s former capacity. Ms. Dodd alleges that she was transferred because of her race [DE 1].

DISCUSSION

Ms. Dodd’s complaint was not timely filed, and therefore it must be dismissed for failure to state a claim upon which relief may be granted. Fed. R. Civ. P. 12(b)(6). A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) will succeed if a plaintiff fails to establish a “plausible” claim for relief. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007); *Ashcroft v.*


Iqbal, 556 U.S. ___, 129 S.Ct. 1937, 1949 (2009).

Title VII requires that a lawsuit be filed in state or federal court within ninety days of receipt of a right to sue letter. 42 U.S.C. § 2000e-5(f)(1); 29 C.F.R. § 1601.28(e). In *McDonnell Douglas Corp. v. Green*, the United States Supreme Court noted two prerequisites to a Title VII action: “filing timely charges of employment discrimination with the [EEOC] and...receiving and acting upon the Commission’s statutory notice of the right to sue.” 411 U.S. 792, 798 (1973). Ms. Dodd’s right to sue letter was mailed on March 5, 2010. Ms. Dodd initially filed her complaint on September 22, 2010. In the absence of any argument that equitable tolling is appropriate, Ms. Dodd’s filing of her complaint with this Court was untimely and must be dismissed.

CONCLUSION

For the foregoing reasons, Defendant’s Motion to Dismiss [DE 16] is GRANTED and Plaintiff’s claims under Title VII are DISMISSED.

SO ORDERED, this the 17 day of October, 2011.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE